



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MENDOCINO**

**Proposed Changes to  
Local Rules**

Publication Date: March 24, 2016

Deadline for Comment: May 9, 2016 – 4:00 p.m.

Effective Date: July 1, 2016

**LIST OF CHANGES FOR JULY 1, 2016 RULES**

**Summary of Changes**

**Telephonic Appearance, Facsimile Filings, Requests to be Transported and Court Copies**

**Rule 11.2** – Corrects contact phone number.

**Appendix CH 11: Telephonic Appearance and Facsimile Rules**

**Form #: MFL-147-Local** – Removes closed courthouse from the caption.

**Fees of Attorneys, Investigators, and Experts**

**Rule 19.5.1** – Rule added.

**Appendix CH 19: Fees for Attorneys & Investigators**

**Form #: MPB-152-Local** – Form added.

**CHAPTER 11 – TELEPHONIC APPEARANCE, FACSIMILE FILINGS, REQUESTS  
TO BE TRANSPORTED AND COURT COPIES**

**11.1 Telephonic Appearance**

**Civil/Probate**

**a. Case Type and Proceedings Which are Permitted**

Unless otherwise ordered, parties may appear by telephone in cases defined in California Rule of Court 3.670(b) and in proceedings defined in California Rule of Court 3.670(c).

**b. Request for Teleconferencing Services Through Private Vendor**

In accordance with California Rule of Court 3.670(i), the Court has contracted with CourtCall, LLC to provide teleconferencing services for court appearances. Information as to the forms and fees for requesting telephonic appearances may be obtained directly from CourtCall at 1-888-88-COURT.

**c. Notice by Party**

A party who chooses to appear by telephone will satisfy the requirements of California Rule of Court 3.670(g) for notice to the Court by timely providing to CourtCall the CourtCall Telephonic Appearance Request form.

**Family Support**

**a. Case Type and Proceedings Which are Permitted**

Unless otherwise ordered, parties may appear by telephone in cases and proceedings defined in California Rule of Court 5.324(c).

**b. Request for Teleconferencing Services**

Requests to appear by telephone must be submitted on Judicial Council form n. FL-679 and in accordance with California Rule of Court 5.324 (e).

**Criminal/ Juvenile Delinquency/Traffic**

**a. Requests for Teleconferencing Services**

Upon ex parte application with a showing of good cause, the Court may permit a party to appear by telephone at a hearing, conference, or proceeding.

**b. Approved Requests for Teleconferencing Services**

Upon the granting of an ex parte application to appear by telephone, the party must contact CourtCall, LLC to arrange teleconferencing services at least three court days before the court appearance. The Court has contracted with CourtCall,

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LLC to provide teleconferencing services. Information as to the forms and fees may be obtained directly from CourtCall at 1-888-88-COURT.

### **Juvenile Dependency**

- a. **Request for Teleconferencing Services for Juvenile Dependency**  
Requests to appear by telephone for a Juvenile Dependency matter must be submitted on Local Form No. MJV-150 at least 48 hours prior to the hearing.
- b. **Notice by Party for Teleconferencing Services for Juvenile Dependency**  
A party requesting to appear by telephone must:
  - 1. Place the phrase “Telephone Appearance” below the title of all moving, opposing, or reply papers.
  - 2. Notify all other parties of the intent to appear by telephone at least **48 hours** before the hearing by serving a copy of Local Form No. MJV-150 to all other parties.
- c. **Request for Teleconferencing Services through Private Vendor**  
In accordance with California Rule of Court 3.670(i), the Court has contracted with Court Call, LLC to provide teleconferencing services for court appearances. Information as to the forms and fees for requesting telephonic appearances may be obtained directly from CourtCall at 1-888-88-COURT.
- d. **Approved Request for Teleconferencing Services for Juvenile Dependency**  
Upon the granting of a request to appear by telephone for a Juvenile Dependency matter, the party must contact CourtCall, LLC to arrange these services at least 48 hours before the hearing. Information as to the forms and fees may be obtained directly from CourtCall at 1-888-88-COURT.
- e. **Waiver of Requirement**  
For waiver of Requirement to use CourtCall, see Request for Telephone appearance (Juvenile Dependency) in the appendix hereto.

### **Family Law**

- a. **Case Type and Proceeding which are permitted**  
Unless otherwise ordered, parties may appear by telephone for an Ex Parte Hearing or Non-Evidentiary Hearing. Upon request and with a showing of good cause, the Court may permit a party to appear by telephone for an Evidentiary Hearing or a Child Custody Mediation.
- b. **Requests for Teleconferencing Services for Ex Parte Hearings or Non-Evidentiary Hearings**

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The Court has contracted with CourtCall, LLC to provide teleconferencing services. Information as to the forms and fees may be obtained directly from CourtCall at 1-888-88-COURT.

c. **Notice by Party for Teleconferencing Services for Ex Parte Hearings or Non-Evidentiary Hearing**

A party choosing to appear by telephone must:

1. Place the phrase “Telephone Appearance” below the title of the moving, opposing, or reply papers.
2. Provide the required forms and fees to CourtCall by 11:00 a.m. the day of the court hearing.

d. **Request for Teleconferencing Services for Evidentiary Hearings or Child Custody Mediation**

Requests to Appear by Telephone for an Evidentiary Hearing/Child Custody Mediation and Proposed Orders must be submitted on Local Form No. MFL-146 and Local Form No. MFL-147.

e. **Notice by Party for Teleconferencing Services for Evidentiary Hearings or Child Custody Mediation**

A party choosing to appear by telephone must either:

1. Place the phrase “Telephone Appearance” below the title of the moving, opposing, or reply papers; **or**
2. Notify all other parties of the intent to appear by telephone at least three (3) court days before the hearing by oral or written notice.

f. **Approved Request for Teleconferencing Services for Evidentiary Hearings or Child Custody Mediation**

Upon the granting of a Request to Appear by Telephone for an Evidentiary Hearing or Child Custody Mediation, the party must contact CourtCall, LLC to arrange these services at least three (3) court days before the hearing. Information as to the forms and fees may be obtained directly from CourtCall at 1-888-88-COURT.

*(Eff. 1/1/99; Amended eff. 1/1/03; Amended eff. 7/1/08; Amended eff. 7/1/09; Amended eff. 1/1/10; As amended eff. 1/1/11.)*

### 11.2 Facsimile Filing

Facsimile produced documents, excluding Tribal Court Protective Orders, may not be transmitted for filing directly to any fax machine owned or operated by the Court or the Clerk’s Office. In order to be filed with the Court, all facsimile produced documents must be presented

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for filing at the filing window in accordance with California Rule of Court, rules 2.300, 2.301, 2.302, 2.303 and 2.305.

Tribal Court Protective Orders that are entitled to be registered under Family Code §6404 may be filed by facsimile directly with the clerk's office in accordance with California Rule of Court, rule 5.386 and California Rule of Court, rules 2.300, 2.301, 2.302, 2.303, 2.304, and 2.305. To obtain the appropriate fax number, parties should call the court clerk's office at ~~(707) 468-2003~~ (707) 468-2003 or visit the court's website at [www.mendocino.courts.ca.gov](http://www.mendocino.courts.ca.gov). (Eff. 1/1/99; Amended eff. 7/1/04; Amended eff. 7/1/08; Amended eff. 1/1/10; Amended eff. 1/1/12; ~~As amended 7/1/16~~ As amended 7/1/16.)

### 11.3 Transportation of prisoners to Juvenile or Family Law Hearings

- a) Except as provided for by law, when the parental or marital rights of any inmate of the Mendocino County Jail are subject to adjudication the inmate may request to be transported to court by submitting the Court's local form, Request to be Transported Pursuant to Penal Code 2625, MMC122-Local.
- b) Persons incarcerated in State Prison, CRC, or the Division of Juvenile Justice, whose parental rights are subject to adjudication, may request to be transported to court by submitting Judicial Council form JV-450, Order for Prisoner's Appearance at Hearing Affecting Prisoner's Parental Rights and Waiver of Appearance.

(Eff. 7/1/09; As amended eff. 1/1/10.)

### 11.4 Provision of "Court Copies" for Specified Court Hearings

#### a. Motions

Litigants filing any motion or order to show cause ("OSC") for a Civil, Criminal, Family Law or Juvenile hearing shall, at the time of filing the original moving papers, lodge one additional "court copy" for use by the judicial officer assigned to hear the matter. Any litigant opposing a motion or OSC shall also be required to lodge a "court copy" at the time of filing the original reply, if any.

#### b. Appellant Motions and Briefs

Appellants and Respondents shall file an original and three "court copies" of any motion or brief in the Appellate Department.

#### c. Exceptions:

1. Motions which do not include a memorandum of points and authorities;

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2. Any motion for which the points and authorities in support of or in opposition to the motion does not exceed two pages in length;
3. Ex Parte Hearings.

*(Eff. 7/1/09; As amended eff. 1/1/10.)*

**CHAPTER 11**

**APPENDIX**

**TELEPHONIC APPEARANCE AND  
FACSIMILE FILING RULES**



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address)  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           TELEPHONE NO.:            E-MAIL ADDRESS (Optional):            ATTORNEY FOR (Name):         </div> <div style="width: 45%;">           FAX NO. (Optional):         </div> </div>	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO</b>  ADDRESS:  CITY AND ZIP CODE:  BRANCH NAME:	
PETITIONER/PLAINTIFF:   RESPONDENT/DEFENDANT:	CASE NUMBER:  <hr/> Hearing Date:  <div style="display: flex; justify-content: space-between;">         Time:         <div>Department:</div> </div>
<b>REQUEST FOR TELEPHONE APPEARANCE FOR EVIDENTIARY HEARING/CHILD CUSTODY MEDIATION (Family Law)</b>	

1. I, (name): \_\_\_\_\_ am the  
☐ petitioner    ☐ respondent    ☐ attorney for (name): \_\_\_\_\_ in this case.
2. ☐ I ask the court to allow me to appear telephonically at the above hearing.
3. ☐ I have given notice by:
  - ☐ Placing the phrase "Telephone Appearance" below the title of the moving, opposing, or reply papers; **or**
  - ☐ I have notified all other parties of the intent to appear by telephone at least three (3) court days before the hearing.
    - o Oral Notice was given on (date): \_\_\_\_\_  
 at (time): \_\_\_\_\_ a.m./p.m.
    - o Written Notice was given on (date): \_\_\_\_\_  
 at (if by fax, time): \_\_\_\_\_ a.m./p.m.

**ADVISEMENT REGARDING TELEPHONE APPEARANCE**

1. I know that I can personally appear at this hearing, and I give up that right. I agree to be duly sworn upon request by the court clerk, holding up my right hand and agreeing under penalty of perjury under the laws of the State of California to tell the truth and nothing but the truth.
2. I understand that upon the granting of my Request for Telephone Appearance for Evidentiary Hearing/Child Custody Mediation, I must contact CourtCall, LLC to arrange teleconferencing services at my own expense. The Court has contracted with CourtCall, LLC to provide teleconferencing services. Information as to the forms and fees may be obtained directly from CourtCall at 1-888-88-COURT.

I understand that if I do not make the proper arrangements for a telephone appearance as set out in local rules or in directions provided by the court, the matter may proceed without my personal or telephone appearance and the court may decide my case based on the documents filed and any testimony given for this hearing.

3. I understand that the court may decide at any time to require my personal appearance and continue my hearing.

I have read the Advisement Regarding Telephone Appearance section of this form and I understand that the terms apply to me.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

*(Adopted for Mandatory use effective 1/1/10-Form #MFL-146-Local)*

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MENDOCINO**

<input type="checkbox"/> <b>Ukiah Main Courthouse</b> 100 North State Street Ukiah, CA 95482	<input type="checkbox"/> <b>Ten Mile Branch</b> 700 South Franklin Street Fort Bragg, CA 95437
<b>Plaintiff/Petitioner:</b>	
<b>Defendant/Respondent:</b>	
<b>ORDER RE: REQUEST FOR TELEPHONE APPEARANCE FOR EVIDENTIARY HEARING/CHILD CUSTODY MEDIATION</b>	<b>Case No.:</b>

**IT IS HEREBY ORDERED THAT:**

The request pursuant to Local Rule of Court 11.1 filed by \_\_\_\_\_ in the above entitled matter  
on \_\_\_\_\_, 20\_\_\_\_\_, is hereby:

- ( ) **GRANTED** as to the Hearing date: **<type in date>**.
- ( ) **DENIED** as untimely.
- ( ) **DENIED OTHER:**

Date: \_\_\_\_\_

\_\_\_\_\_  
**<TYPE IN JUDGE'S NAME>**,  
Judge of Superior Court

*(Adopted for Mandatory use effective 1/1/10-Form # MFL-147-Local)*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):      TELEPHONE NO: _____ FAX NO. (Optional) _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO</b>  ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITIONER/PLAINTIFF: _____  RESPONDENT/DEFENDANT: _____	CASE NUMBER: _____
	HEARING DATE: _____  TIME: _____ DEPT.: _____

### REQUEST TO BE TRANSPORTED PURSUANT TO PENAL CODE 2625

To the Superior Court of California, County of Mendocino:

I am a party in the above entitled case (name and identification number) \_\_\_\_\_  
\_\_\_\_\_ and I am requesting to be transported to  
Department \_\_\_\_\_ for a hearing that is scheduled on \_\_\_\_\_  
at \_\_\_\_\_ a.m./p.m. for the purpose of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Requesting Party's Signature

*(Adopted for Mandatory use effective 7/1/09-Form # MMC-122-local)*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address)   <div style="display: flex; justify-content: space-between;"> <div>           TELEPHONE NO.:            E-MAIL ADDRESS (Optional):            ATTORNEY FOR (Name):         </div> <div>           FAX NO. (Optional):         </div> </div>	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO</b>  ADDRESS:  CITY AND ZIP CODE:  BRANCH NAME:	
In the matter of:     <div style="text-align: right;">Child(ren)</div>	CASE NUMBER:   <hr/> Hearing Date:  <div style="display: flex; justify-content: space-between;"> <div>Time:</div> <div>Department:</div> </div>
<b>REQUEST FOR TELEPHONE APPEARANCE (Juvenile Dependency)</b>	

1. I, (name): \_\_\_\_\_ am the  
☐ parent      ☐ other (specify): \_\_\_\_\_  
☐ attorney for (name): \_\_\_\_\_ in this case.
2. ☐ I ask the court to allow \_\_\_\_\_ to appear telephonically at the above hearing.
3. ☐ I have given all parties **48 hours notice** by:
  - ☐ Placing the phrase "Telephone Appearance" below the title of the moving, opposing, or reply papers; or
  - ☐ Serving all other parties with this request
4. ☐ I understand that upon the granting of my Request for Telephone Appearance - (Juvenile Dependency) I must contact CourtCall, LLC to arrange teleconferencing services at my own expense. The Court has contracted with CourtCall, LLC to provide teleconferencing services. Information as to the forms and fees may be obtained directly from CourtCall at 1-888-88-COURT
5. ☐ I request the Court waive the requirement to use CourtCall and any fees associated with my request to appear telephonically due to the following:
  - ☐ \_\_\_\_\_ receives public benefits
  - ☐ The gross monthly household income (before deductions for taxes) of \_\_\_\_\_ is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,128.13	3	\$1,907.30	5	\$2,686.46
2	\$1,517.71	4	\$2,296.88	6	\$3,076.05

**\*\* If more than 6 people at home, add \$389.59 for each extra person.**

- ☐ Based on information and belief, \_\_\_\_\_ does not have enough income to pay for his/her household's basic needs and telephonic appearance fees.
- ☐ \_\_\_\_\_ is a Tribal Representative and through County Counsel has requested a waiver of the telephonic appearance fees.
- ☐ is a minor

**I declare under penalty of perjury under the laws of California that the information I have provided on this form and all attachments is true and correct except as to matters stated on information and belief and as to those matters I believe them to be true.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Print your name here

\_\_\_\_\_  
Sign here

**ADVISEMENT REGARDING TELEPHONE APPEARANCE**

**(OPTIONAL – ATTORNEY DISCRETION)**

6. I know that I can personally appear at this hearing, and I give up that right. I agree to be duly sworn upon request by the court clerk, holding up my right hand and agreeing under penalty of perjury under the laws of the State of California to tell the truth and nothing but the truth.
7. I understand that if I do not make the proper arrangements for a telephone appearance as set out in local rules or in directions provided by the court, the matter may proceed without my personal or telephone appearance and the court may decide my case based on the documents filed and any testimony given for this hearing.
8. I understand that the court may decide at any time to require my personal appearance and continue my hearing.

I have read the Advisement Regarding Telephone Appearance section of this form and I understand that the terms apply to me.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

*(Adopted for Mandatory use effective 1/1/11 Form # MJV-150-local)*

[illegible]

Pursuant to Local Rule of Court 11.1, this *Request for Telephone Appearance (Juvenile Dependency)*, filed by \_\_\_\_\_, on \_\_\_\_\_, in the above entitled matter is hereby:

☐ **DENIED** as untimely.

☐ **DENIED:** \_\_\_\_\_  
\_\_\_\_\_

(Adopted for Mandatory use effective 1/1/11-Form # MJV-151--local)

**CHAPTER 19 – FEES OF ATTORNEYS, INVESTIGATORS AND EXPERTS**

**19.1 Attorney's Fees in Cases Involving Claims of Minors, Insane or Incompetent Persons**

Counsel fees in excess of the following schedule ordinarily will not be considered reasonable in actions compromised under section 372 of the Code of Civil Procedure or section 3500 of the Probate Code:

- a. Recovery two weeks or earlier prior to trial date first assigned case: 25% of net amount received.
- b. Recovery later than two weeks prior to trial date first assigned case or during trial: 33 1/3% of net amount recovered.
- c. Recovery after filing of respondent's brief on appeal or after affirmance: 40% of net amount recovered.

In computing fees the court will require parents claiming reimbursement for medical expenses, etc., to pay their proportionate share of the counsel fees except in cases of hardship. Reasonable costs incurred that were paid by counsel and are itemized and accompanied by appropriate vouchers or other supporting evidence will be allowed except they will not be included in the amount of the recovery on which fees are computed.

*(Eff. 1/1/99; As amended eff. 1/1/09.)*

**19.2 Attorney's Fees in Actions on Promissory Notes, Contracts Providing for Payment of Attorney's Fees and Foreclosures; Attorney's Fee Schedule**

The following attorney's fees shall, under normal circumstances, be awarded in actions on promissory notes and contracts providing for the payment of attorney fees and foreclosures;

**a. Default Action on a Note or Contract (exclusive of costs):**

25% of the first \$1,000 with a minimum of \$150  
20% of the next \$4,000  
15% of the next \$5,000  
10% of the next \$10,000  
5% of the next \$30,000  
2% of the amount of \$50,000

In an action upon contract providing for attorney's fees, the clerk shall include in the judgment attorney's fees in accordance with this schedule, not to exceed the amount paid for.

- a. **Contested Action on Note or Contract**  
The same amount as computed under subparagraph (a) increased by such reasonable compensation computed on an hourly or per day basis for any additional research, general preparation, trial or other services as may be allowed by the court.
- b. **Foreclosure of Mortgage or Deed of Trust**  
The same amount as computed under subparagraph (a) or (b) increased by 10%.
- c. **Foreclosure of Assessment or Bond Lien Relating to a Public Improvement**  
The same amount as computed under subdivision (a) or (b), except that the minimum fee shall be \$75 in an action involving one assessment or bond, and an additional \$20 for each additional assessment or bond being foreclosed in the same action.

*(Eff. 1/1/99; Amended eff. 7/1/08; As amended eff. 1/1/09.)*

### **19.3 Attorney's Fees in Guardianship and Conservatorship Proceedings**

Attorneys for guardians or conservators are compensated according to the work actually performed. The size of the estate corpus and the responsibility assumed by the attorney are only two of the factors considered in arriving at the value of the services. Application for attorney's fees must be accompanied by a complete statement of the facts upon which the application is based, including a detailed statement of the amount of time devoted to each component of the services and must specify the amount requested for each item of services. *(Eff. 1/1/99; As amended eff. 1/1/09.)*

### **19.4 Attorney's Fees and Representative's Fees for Extraordinary Services in Probate Proceedings or in any Matter Defined in the Probate Code for Which a Statutory Fee is not Established**

- a. In evaluating the justification for an award of fees for extraordinary services or other services referred to herein, the court will take into consideration the statutory fee and consider whether it constitutes adequate compensation for all of the services rendered by the attorney or representative.
- b. Notwithstanding the principles stated in the foregoing paragraph (a) extraordinary compensation will be paid when requested for the following services:
  - 1. Preparation of fiduciary tax returns and resolution of problems arising from the audit of such returns. Payments made to accountants or to other tax preparers for such services and charged to the estate must be set forth in the request for extraordinary compensation and subtracted from the amount requested.



2. Sales of property without a broker.
- c. Subject to the principles stated in the foregoing paragraph (a), compensation for extraordinary services will be considered in the following situations:
  1. Litigation on behalf of the estate;
  2. Operating or selling a business;
  3. Sales of estate property;
  4. Performance of any act resulting in extraordinary benefit to the estate or requiring an extraordinary expenditure of time or display of confidence.
- d. Application for fees for extraordinary services will not be considered unless the title of the petition and the notice of hearing include a reference to the request. The prayer shall set forth the specific amount of the request.
- e. An application for compensation for extraordinary services or any other services for which a fee is requested other than ordinary services shall specify:
  1. Date rendered;
  2. Services rendered in detail;
  3. Hours spent on ordinary services;
  4. Hours spent on extraordinary services;
  5. Hourly rate;
  6. Total amount requested

*(Eff. 1/1/99.)*

## **19.5 Fees of Guardians and Conservators**

Amount factors to be considered in determining the compensation allowable to guardians and conservators are:

- a. The gross income of the estate;
- b. The success or failure of administration of the guardian or conservator;
- c. Any unusual skill or experience which the guardian or conservator in question may have brought to his work;
- d. The fidelity or disloyalty displayed by the guardian or conservator;
- e. The amount of risk and responsibility assumed by the guardian or conservator in carrying out such duties;
- f. The time consumed by the guardian or conservator in carrying out such duties;

- g. The custom in the community as to charges exacted by trust companies and banks;
- h. The character of the work done in the course of administration whether routine or involving skill and judgment;
- i. Any estimate which the guardian or conservator has given of the value of the guardian or conservator's own services (Estate of Nazro, (1971) 15 Cal.App.3<sup>rd</sup>218).

*(Eff. 1/1/99.)*

#### **19.5.1 Fees to be Paid for Guardianship or Conservatorship Investigations**

In Guardianship and Conservatorship matters, the Court shall assess a fee as reimbursement for court expenses incurred for any investigations or review conducted by the Court Investigator in any guardianship or conservatorship case.

Subject to determination by the Court of ability to pay, the fees shall be as follows:

a. Conservatorship investigation or review:	\$400
b. Guardianship investigations:	\$500
c. Guardianship reviews:	\$200

*(Effective 7/1/16.)*

#### **19.6 Notices**

Before any order for the payment of fees is made there shall be filed with the court proof that all parties entitled to notice have been given notice of filing the petition for payment of fees and a copy of the petition requesting such fees. *(Eff. 1/1/99.)*

#### **19.7 Fees and Commission Must be Fixed by Court Prior to Payment**

There is no authority for the payment of any fees or commissions in decedent's estates, guardianships or conservatorships in advance of a court order authorizing the same. Representatives will be surcharged interest to the date of any order authorizing such payment unless in the case of a decedent's estate the written consent of the residuary beneficiaries is filed with the court and the amounts paid are reasonable and proper. *(Eff. 1/1/99.)*

#### **19.8 Court Appointed Attorneys: Standards of Experience and Allowable Fees and Expenses**

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The following procedure shall be used in fixing fees allowable to attorneys appointed by the superior court to represent individuals who are unable to employ counsel and who cannot be represented by the public defender or the appointment conflicts firms or attorneys who are employed by the public defender or appointment conflicts firm, but who are to be separately paid in accordance with this rule.

### **a. Application for Fees**

1. The court shall allow attorney's fees and costs for services rendered and expenditures made by counsel properly appointed in criminal, juvenile or other matters while such matters are pending before the superior court. Travel expenses must be pre-approved by the court.
2. Application for the payment for such fees and costs in misdemeanor or delinquency proceedings shall ordinarily be made at the time of the final superior court disposition of the proceeding in which court appointed counsel served, but in no event shall such application be presented more than 30 days thereafter. Pretrial interim application for fees may be made in cases involving the death penalty or life without the possibility of parole, or in exceptionally complex or lengthy cases upon special application; provided, however, that no pretrial interim authorization for fees shall exceed the sum of \$3,000 per month, plus expenses, for lead counsel and \$1,500 per month, plus expenses, for associate counsel, such funding limitations to be imposed as an average for the claim period.
3. Attorneys in dependency cases, shall bill the Administrative Office of the Courts monthly for fees and costs, and in any event, not later than 10 days from the end of the month.
4. Application for fees and costs shall be made by written declaration in a form to be approved by this court, itemizing the legal services rendered, the amount of time devoted to the case and the expenses incurred.
5. Application for fees and costs shall be submitted to the court executive officer or designee for subsequent approval by the department in which the case has been pending.
6. The court will allow a reasonable fee in consideration of the nature and complexity of the case and the degree of skill and effort required of counsel.

### **b. Categories of Charged Crimes or Other Matters**

1. **Class 1:** All homicides, whether capital or non-capital, and all offenses having a maximum sentence of life without possibility of parole, or in the discretion of the court, an aggregate state prison sentence of 30 years or more.
2. **Class 2:** All crimes for which the upper term of punishment is five years or more, but less than Class 1.

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3. **Class 3:** All other felonies, misdemeanors, juvenile matters and all civil matters including probate, guardianship and family law.

### **c. Minimum Experience Requirements for Appointed Attorneys**

1. **Class 1:** Certified criminal law specialist or equivalent.
2. **Class 2:** Five years' experience as an attorney, with a substantial part of such experience in criminal law.
3. **Class 3:** All attorneys.  
Upon proper showing, a person may be eligible for a class by virtue of showing of equivalent experience as determined by the presiding judge.

### **d. Fee Schedule**

All attorneys, as a condition to becoming eligible for appointments, shall agree to handle all cases to which they are appointed on a fee basis. The court will adopt a fee schedule separate and apart from the court rules. Said schedule will be reviewed and adjusted annually, or as necessary.

1. Regardless of the fee schedule set forth, if an attorney believes that the case is of such a special or unusual nature that it is not possible to render services in accord with the maximum fee schedule, he/she must file a declaration declaring the reasons for that conclusion. Upon such written application, a reasonable fee in excess of the limits set forth in this schedule may be established by the judge presiding in the case.
2. Except as set forth in paragraph (4) below, attorneys shall not receive extra compensation for normal operating expenses such as mileage, photocopies and long distance telephone calls; extra compensation will be allowed for such expenses as fees for investigators and expert witnesses in accordance with these rules.
3. In all cases, the final fees allowed shall be determined by reference to the nature and complexity of the case and the degree of skill and effort required in handling the matter. Fee claims will be adjusted in accordance with the standard.
4. In the event that an attorney appointed by this court must appear in court of another county on a case transferred from this court, the attorney shall be entitled to reasonable travel and living expenses necessarily incurred in connection with his/her appearance in the court of the other county. Unless the appointed attorney obtains permission in writing from the presiding judge in advance, the attorney shall travel by private automobile and shall be reimbursed for necessary mileage at the rate allowed by the County of Mendocino at the time of the travel. In no event shall the attorney seek payment of fees for the time spent by the attorney while traveling. Living expenses for each such attorney will be allowed at the rate established by the State Board of Control Rules.

Any request for reimbursement of travel or living expenses shall be made by written declaration and submitted to the court executive officer who shall review such requests and recommend payment in appropriate cases to the presiding judge. All requests for such reimbursement shall include a complete inventory of costs and expenses with all applicable receipts attached.

*(Eff. 1/1/99; Amended eff. 7/1/99; Amended eff. 1/1/09; As amended eff. 1/1/10.)*

## **19.9 Investigation Fees and Expenses**

### **a. License**

Each investigator shall provide the court executive officer with a true copy of his or her most recent license and a list of all employees who are authorized to work there under.

### **b. Work Performed**

Each billing shall clearly identify what work was performed by what person. If work was performed by more than one person, some symbol shall be used to identify the hours actually worked and the tasks actually performed by each individual.

### **c. Time to Submit Billing**

The investigator shall not submit a billing until his or her work on the case has been concluded unless time worked covers more than one fiscal year; but, in no event shall such billing be presented more than 30 days thereafter. However, in unusual cases involving many hours of investigative work, the court may authorize interim billings, provided that such authorization is obtained in advance.

Where the court authorizes interim billings, each bill shall identify the period of time that it covers and shall be identified by a serial number (e.g. "Interim Billing No. 3").

### **d. Order of Appointment; Further Authorization**

Each order appointing an investigator shall provide a blank space for the judge to insert a dollar limit for the services to be provided. When this authorization or "cap" is exhausted, further authorization must be obtained from the court before billings in excess of the original amount will be paid. This authorization must be obtained in advance. When an attorney or investigator requests an order authorizing additional investigative time, the request shall be accompanied by detailed statement of the work performed up to that time. This detailed statement will not be treated as a billing unless the court has granted authorization for interim billing.

### **e. Meals; Lodging**

The court will not reimburse for meals or lodging unless advance approval has been obtained.

**f. Application for Fees and Expenses**

An application for investigation fees and expenses shall be made in writing by the assigned counsel and not the investigator as follows:

1. To the judge of the department to which the case has been assigned;
2. To the judge of the department to which the matter has been referred pursuant to Penal Code section 987.9;
3. In all other cases to the presiding judge.

**g. Amount of Fees**

**1. Cases Other Than Capital or Life Sentence Cases**

The initial application shall not exceed the sum of \$3,000. Additional applications may be made upon a showing that further investigation is necessary in an amount not to exceed \$1,500 per application.

**2. Capital and Life Sentence Cases**

Application for fees in capital cases shall be governed by the provisions of Penal Code section 987.9 and is upon a declaration by the appointed counsel. The initial application for capital and life sentence cases shall not exceed \$5,000. Additional application may be made upon a showing that further investigation is necessary in an amount not to exceed \$2,500 per application.

**3. All Cases**

In no event shall the court grant fees or expenses not reasonably justified by the nature of the case as supported by written declaration by the assigned counsel. This rule will be strictly enforced. The declaration shall specify the nature and purpose of the proposed investigation and shall contain an estimate of the fees and expenses involved. The court will consider for payment long distance telephone calls and reasonable time spent in writing reports. Unusual or extraordinary requests shall be justified in detail. The court will not authorize payment without specific prior approval for:

- A. Transportation services;
- B. Clerical work;
- C. Courtroom observation;
- D. Defendant services, i.e. haircuts, shopping, mail services, etc.

All billings shall contain a detailed and specific statement of services actually rendered. Time shall be billed in increments of 1/10 hour (see sample billing, Appendix A). The following types of services shall be separately stated:

- Travel time;
- Time spent interviewing witnesses;
- Time spent in conference with attorneys;
- Time spent reviewing reports or other documents;

## **Mendocino Superior Court**

- Time spent in measuring, diagramming or photographing scenes, locations, persons and objects;
- Time spent researching public records or in obtaining documents or other information.

Ordinarily, the court will not approve payment of time spent in locating a defendant in a criminal case, a minor in a 602 juvenile case or a parent in a 300 juvenile matter. It is the duty of such persons to remain in contact with their attorneys and investigators.

Double billing for travel and similar expenses is prohibited (for example, an investigator traveling to a location to work on more than one case; the investigator shall bill only once for travel and related expenses).

The court will not approve payment of excessive time spent in conference with attorneys, fellow investigators or with the defendant. The billing must set forth a detailed explanation of the need for such conference time before the court will consider payment.

An investigator who wishes to bill for time spent with an attorney in court must obtain approval of the court before spending such time in court. The court will not approve payment for time spent with an attorney in court, unless there has been such prior approval.

In all criminal and juvenile cases, investigators' billings will be treated as confidential, will be placed in sealed envelopes and will be made available only to the court and authorized staff.

The court will not appoint investigators employed by the same firm to represent multiple defendants in criminal cases or different parties in a single juvenile case due to the potential for conflicts of interest.

An investigator has the duty to disclose fully in writing any payment or other compensation received from any source other than the court for services rendered in connection with any case in which the investigator has been appointed.

**h. Order for Payments**

The order for investigation fees and expenses shall be in the form set forth in a form approved by this court. All orders for payment shall include in the caption an accumulative total of all payments to date. Subsequent orders shall not include any expenses prior to the last order submitted.

**i. Maximum Rates for Investigative Services**

Claims for investigative services authorized pursuant to this rule shall be paid at the rate established by a general order of the court. General orders are on file in the office of the court executive officer.

**j. Submission of Claims**

## **Mendocino Superior Court**

Claims for investigation fees and expenses shall be made on a form approved by the courts to which must be attached a copy of the court order awarding fees and a detailed accounting of all claimed fees and expenses.

The claim shall first be submitted to the court executive office for approval.

*(Eff. 1/1/99; As amended eff. 1/1/09.)*

### **19.10 Non-Psychiatric Expert Fees and Expenses**

#### **a. Application for Expert Fees and Expenses**

Application for non-psychiatric expert fees and expenses shall be made in writing as follows:

1. To the judge of the department to which the case has been assigned;
2. To the judge of the department to which the matters have been referred pursuant to Penal Code section 987.9;
3. In all other cases to the presiding judge.

#### **b. Amount of Fees**

In no event shall the court grant fees or expenses not reasonably justified by the nature of the case as supported by the written declaration. The written declaration shall specify the nature, purpose and materiality of the proposed expert services and shall contain an estimate of the fees and expenses involved including the proposed expert's hourly fees for court work and for courtroom testimony. The name of the expert to be retained and a brief statement of qualification shall also be included or attached. Unusual or extraordinary requests shall be justified in detail.

#### **c. Order for Fees and Expenses**

The order for expert fees and expenses shall be on a form approved by this court.

#### **d. Maximum Rates for Expert Services and Testimony**

Claims for expert services authorized pursuant to this rule shall not exceed the amounts approved by the court.

#### **e. Submission of Claims**

Claims for expert fees and expenses shall be made on a form approved by this court to which must be attached a copy of the court order awarding fees and a detailed accounting of all claimed fees and expenses. The claim shall be submitted to the court executive officer for subsequent approval by the department which authorized the expenditure specified in paragraph (a) of this rule.

*(Eff. 1/1/99.)*



**19.11 Claim for Payment**

Court appointed attorneys, investigators and expert witnesses shall submit a County of Mendocino “Claim” form in order to receive payment for services rendered. Each person seeking payment must complete and submit a claim substantially in the form set forth in Appendix 3 to Rule 19.

- a. **Order of Appointment by Court**  
Before payment may be processed, an endorsed copy of the order appointing the claimant must be attached to the claim form.
- b. **Submission for signature**  
Each claim for payment should be submitted to the Superior Court Accounting Department, who will submit the claim for signature to the judge who made the appointment. Once the judge signs the order statement, the claim will be processed by the court executive officer or designee.
- c. **Time Limit for Submitting Claims**  
Attorneys, investigators and expert witnesses appointed by the court shall file a claim for payment no more than thirty (30) days after rendering their services. Claims submitted beyond forty-five (45) days will require a separate declaration explaining to the court that the delay was unavoidable. Consistent failure to provide timely claims will be considered by the court in future appointments. Claims submitted forty-five (45) days beyond a fiscal year will not be honored.

*(Eff. 1/1/9)*

CHAPTER 19

APPENDIX

FEES FOR ATTORNEYS & INVESTIGATORS

## CHAPTER 19

### FEES OF ATTORNEYS, INVESTIGATORS AND EXPERTS

#### CLAIM INSTRUCTIONS

1. **Claims for Payment.** Court appointed attorneys, investigators and expert witnesses shall submit a court approved claim form in order to receive payment for services rendered on a monthly basis.
  - a. **Completion of Claim.** Each person seeking payment must complete the form as follows:
    1. Name and address of claimant
    2. Signature of claimant
    3. Case name and number
    4. Invoice number

In the body of the form, the claimant shall provide the following order statement:

"It is hereby ordered that the above named person be compensated for the total due for services rendered and costs incurred in the sum of \$\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Superior Court"

- b. **Order of Appointment by Court.** Before payment may be processed, an endorsed copy of the order appointing the claimant must be attached to the claim form.
- c. **Submission for Signature.** Each claim for payment should be submitted to the court accountant, who will submit the claim for signature to the judge who made the appointment. Once the judge signs the order statement, the claim will be processed by the court accountant.
- d. **Time Limit for Submitting Claims.** Attorneys, investigators and expert witnesses appointed by the court shall file a claim for payment no more than thirty (30) days after rendering their services. Claims submitted beyond forty-five (45) days will require a separate declaration explaining to the court that the delay was unavoidable. Claims submitted forty-five (45) days beyond the fiscal year end may not be paid.

Consistent failure to provide timely claims will be considered by the court in future appointments.

*(Amended effective 1/1/12; amended effective 1/1/09; amended effective 7/1/04; adopted effective 1/1/99.)*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):     TELEPHONE NO: _____ FAX NO. (Optional) _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO</b>  ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITIONER/PLAINTIFF: _____  RESPONDENT/DEFENDANT: _____	<b>CASE NUMBER:</b> _____  <b>HEARING DATE:</b> _____ <b>TIME:</b> _____ <b>DEPT.:</b> _____
	<b><u>REQUIRED: HIGHEST UPPER TERM FOR</u></b> <b><u>ANY SINGLE COUNT</u></b> _____

## CLAIM FORM

NAME AND ADDRESS OF VENDOR

Invoice No.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

***I hereby certify that the service and costs described in the attached invoice have been performed and incurred on the dates set forth and that no prior claim has been made for the same.***

\_\_\_\_\_  
 Signature of Claimant

It is hereby ordered that the above named person be compensated for the total due for services rendered and costs incurred in the sum of \$ \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Judge of the Superior Court

(Amended effective 1/1/12; amended effective 7/1/09; amended effective 1/1/09; amended effective 7/1/04;  
 Adopted for Mandatory use effective 1/1/99 – Form # - MMC-131-local. )

Invoice No. \_\_\_\_\_

## SAMPLE BILLING

**PERIOD OF BILLING:** 6/1/98 through 8/4/98

**WORK DONE BY:** S. Holmes, P.I.; and T. Sleuth, Assistant.

**(IF AUTHORIZED IN ADVANCE):** INTERIM BILLING NO. 1

<u>Date</u>	<u>Services Rendered</u>	<u>Hours</u>
1/5/91	Initial conference w/Atty Rumpole	0.5
	Reviewed arrest reports	1.2
1/6/91	Travel to/from Covelo	2.5
	Interviewed witness Garcia	1.0
	Interviewed witness Azbill	0.2
1/7/91	Atty conference to discuss results of witness interviews	0.6
	Local travel to interview witnesses	0.3
	Interviewed witness Byrd at jail, Ukiah	1.5
1/15/91	Reviewed supplemental police report	0.2
	Additional conference w/Atty Rumpole (JUSTIFICATION: To discuss witnesses' testimony at upcoming PX)	1.3
1/22/91	Local travel (by T.S.)	0.2
	Photo/diagram crime scene (T.S.)	2.5
2/5/91	Travel, Ukiah/Covelo round-trip	2.5
	Subpoena wit's Garcia and Azbill (T.S.)	0.9
2/15/91	Time spent waiting to testify and in testifying at PX (T.S.)	<u>2.5</u>
	<b>TOTAL HOURS BILLED:</b>	<b>19.9</b>

**19.9 HOURS AT \$30/HOUR:**

**\$597.00**

**EXPENSES:**

Mileage, 2 round-trips to Covelo  
(240 miles); local travel (16 miles)  
256 miles @ \$0.30/mile

**\$76.80**

Negatives and prints, camera store  
(receipt attached)

**\$19.95**

**TOTAL BILLING:**

**\$693.75**

**CERTIFICATION**

I hereby certify as follows:

1. The attached statement is true and correct and all services described therein were actually performed by myself and my assistant, T. Sleuth, as noted therein.
2. I have received no compensation for such services from any other source.

I declare under penalty of perjury that the foregoing is true and correct and that this certificate was executed at Ukiah, California on, \_\_\_\_\_.

\_\_\_\_\_  
S. Holmes, P.I.

*(Amended effective 1/1/09; amended effective 7/1/04; adopted effective 1/1/99.)*

<p style="text-align: center;"><b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF MENDOCINO</b></p>		<p style="text-align: center;"><i>For Court Use Only</i></p>
<input type="checkbox"/> UKIAH Courthouse 100 North State Street Ukiah, CA 95482-0337	<input type="checkbox"/> TEN MILE Branch 700 South Franklin Street Fort Bragg, CA 95437	
In the matter of the Guardianship of:		
<p style="text-align: center;"><b>ORDER for PAYMENT of</b> <b>GUARDIANSHIP INVESTIGATION FEES</b></p>		CASE NUMBER:

Pursuant to Probate Code § 1513.1 and Local Rule 19.5.1,

- ☐ based on a financial assessment,  
☐ following a hearing on \_\_\_\_\_.

IT IS SO ORDERED:

- 1) ☐ Expenses incurred for the: ☐ investigation or ☐ review conducted in this matter by the Court Investigator shall be paid to the Clerk of the Court as follows:
- a. ☐ Parent (*name*): \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
       ☐ Parent (*name*): \_\_\_\_\_ Amount: \$ \_\_\_\_\_
- b. ☐ Guardian (*name*): \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
       ☐ Guardian (*name*): \_\_\_\_\_ Amount: \$ \_\_\_\_\_
- c. ☐ Estate of the ward Amount: \$ \_\_\_\_\_
- 2) ☐ Expenses incurred for the: ☐ investigation or ☐ review are waived based on the Court's determination that the assessment of any part of the \$500.00 fee (\$200 for review) would impose a hardship on the ward or the ward's estate.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*Judge of the Superior Court of Mendocino County*

cc: ☐ Christine Flynn, Probate Guardianship Investigator  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_

MPB-152 (rev 01/06/16)